

228076

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Tega Cay Water Service, Inc.
for Adjustment of Rates and Charges and
Modifications to Certain Terms and Conditions
for the Provision of Water and Sewer Service

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2009 - 473 - WS

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)	
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration
<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion
<input checked="" type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input checked="" type="checkbox"/> Proposed Order
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report

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July 30, 2010

VIA HAND DELIVERY

The Honorable Jocelyn G. Boyd
Interim Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Application of Tega Cay Water Service, Inc. for adjustment of rates and charges
and modifications to certain terms and conditions for the provision of water and
sewer service. Docket No.: 2009-473-WS

Dear Ms. Boyd:

Enclosed for filing on behalf of Tega Cay Water Service, Inc. are the original and one (1)
copy of its **Proposed Order** in the above-referenced matter.

By copy of this letter, I am serving a copy of these documents upon all parties of record
and enclose a Certificate of Service to that effect.

If you have any questions or if you need any additional information, please do not
hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.



Benjamin P. Mustian

BPM/cf

Enclosures

cc: Jeffrey M. Nelson, Esquire
James E. Sheedy, Esquire
Susan E. Driscoll, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-473-W/S – ORDER NO. 2010-____
AUGUST __, 2010

IN RE:)
Application of Tega Cay Water Service,)
Inc. for adjustment of rates and charges)
and modifications to certain terms)
and conditions for the provision of)
water and sewer service.)
_____)

**PROPOSED ORDER OF TEGA
CAY WATER SERVICE, INC.**

I. INTRODUCTION

This matter is before the Public Service Commission of South Carolina (“Commission”) on the Application of Tega Cay Water Service, Inc. (“TCWS” or “Company”) for approval of a new schedule of rates and charges and modifications to certain terms and conditions for the provision of water and sewer services for its customers in South Carolina. TCWS filed its Application on February 16, 2010, pursuant to S.C. Code Ann. § 58-5-240 (Supp. 2009) and 26 S.C. Code Ann. Regs. RR. 103-703 (1976, as amended), 103-512.4.A (Supp. 2009) and 103-712.4.A (1976, as amended).

By correspondence, the Commission’s Docketing Department instructed TCWS to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by TCWS’s Application and to mail copies of the Notice of Filing to all customers affected by the proposed rates and charges and modifications. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the

scheduled proceeding of the manner and time in which to file the appropriate pleadings. TCWS filed affidavits showing that it had complied with the Docketing Department's instructions.

A petition to intervene was filed in this case in response to the Notice of Filing by the City of Tega Cay, South Carolina ("City"). Pursuant to S.C. Code Ann. Section 58-4-10(B) (Supp. 2009), ORS is a party of record in this proceeding. Four customers filed letters of protest in the docket. There were no other parties of record.

The Commission held a public hearing on May 19, 2010, in York County for the purpose of allowing TCWS's customers to present their views regarding the Application. Pursuant to directions of the Commission's Docketing Department, notice of this hearing was given to affected customers by the Company as reflected in an affidavit filed by the Company. A total of seventeen (17) customers testified at this hearing.¹ Thereafter, on July 13, 2010, at 10:30 a.m., an evidentiary hearing was convened before the Commission in its offices in Columbia with the Honorable Elizabeth B. Fleming presiding. TCWS was represented at the hearing by John M.S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire. The City was represented by James W. Sheedy, Esquire and Susan E. Driscoll, Esquire. Jeffrey M. Nelson, Esquire, represented ORS. No customer witnesses appeared to testify.

Pursuant to 26 S.C. Code Ann. Regs. 103-845(c) (Supp. 2009), TCWS, the City and ORS prefiled written testimony of their witnesses. At the hearing, TCWS presented the direct testimony of four (4) witnesses: Pauline M. Ahern, CRRA, Principal with AUS Consultants; Steven M. Lubertozzi, CPA, Executive Director of Regulatory Accounting and Affairs at

¹ In addition, Mr. Don Long, a customer of Carolina Water Service, Inc., testified at the York County public hearing subject to an objection by TCWS which is addressed hereinbelow.

Utilities, Inc., Bruce T. Haas, Regional Director of Operations, and Carl Daniel, Regional Vice-President for Utilities, Inc. TCWS also presented rebuttal testimony of Mr. Lubertoizzi, Mr. Haas, Mr. Daniel, and Karen Sasic, Manager of Customer Service. By agreement of the parties, the direct testimony of Douglas H. Carlisle, Ph.D. Economist for ORS, and direct and surrebuttal testimony of Willie J. Morgan, P.E., the Program Manager for its Water and Wastewater Department, and Christina Stutz, Audit Manager for ORS were stipulated into the record. The City presented the direct and surrebuttal testimony of Gerald C. Hartman.

In considering the Application of TCWS, the Commission must consider competing interests to arrive at just and reasonable rates. These competing interests are those of the ratepayer and those of the utility, which has the right to earn a fair return. *S.C. Cable Television Ass'n v. Public Serv. Comm'n*, 313 S.C. 48, 437 S.E.2d 38 (1993). In setting rates, the Commission must determine a fair rate of return that the utility should be allowed the opportunity to earn after recovery of the expenses of utility operations. The legal standards applicable to this determination are set forth in *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-603 (1944) and *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 692-93 (1923). Additionally, "[t]he Commission must authorize sufficient revenue to afford utilities the opportunity to recover expenses and the capital cost of doing business." *Hamm v. Public Service Comm'n of South Carolina*, 310 S.C. 13, 17-18, 425 S.E.2d 28, 31 (1992). In so doing, we may consider the quality of the utility's service, which is determined by reference to its adequacy. *Patton v. S.C. Public Serv. Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984). Regulation, as it has developed in

the United States, is concerned with rates, service, [and] safety. Charles F. Phillips, Jr., *The Regulation of Public Utilities*, (1993) at 171. Rate regulation has two aspects: control of the rate level (earnings) and control of the rate structure (prices). *Id.* As to the rate level, public utilities are entitled to cover all allowable operating costs and to have the opportunity to earn a “fair” rate of return. *Id.* Collectively, these items comprise a company’s total revenue requirement. *Id.* As to the rate structure, public utilities are permitted to establish rates that, at a minimum, will cover their revenue requirement. *Id.* at 171-72. Such rates must be “just and reasonable,” with no “undue” discrimination. *Id.* at 172.

Thus, in considering the Application of TCWS, the Commission must give due consideration to the Company’s total revenue requirement, comprised of allowable operating costs and the opportunity to earn a fair rate of return on its investment. To this end, the Commission will review the operating revenues and operating expenses of TCWS and will endeavor to establish adequate and reasonable levels of revenues and expenses. Further, the Commission will consider a fair rate of return on TCWS’s investment based upon the record before it. Should the Commission’s determination show that rates should be increased, the Commission will then design rates that will meet the revenue requirements of TCWS but that are also just and reasonable and free of undue discrimination. It is noteworthy that neither ORS nor the City contended that TCWS was not entitled to rate relief. To the contrary, ORS’s testimony makes clear that under current rates, TCWS is achieving a return on rate base of only 4.56%. Moreover, the testimony of the City’s lone witness acknowledges that TCWS is entitled to at

least \$143,980 in additional revenue to achieve the City's recommended return on equity of 10.36%.

II. PRELIMINARY MATTERS

A. TCWS OBJECTION TO CUSTOMER TESTIMONY

At the public hearing held on May 19, 2010 in York County, TCWS raised a continuing objection to the Commission receiving and relying upon customer testimony not substantiated by data or not made based upon scientific criteria, consisting of complaints regarding quality of service. [Tr. Vol. 1, p. 10-12.] Through this objection, TCWS asserts that reliance on such testimony is an inappropriate basis for determining just and reasonable rates. *Id.* In support of these arguments, TCWS cites *Patton v. Public Service Commission*, 280 S.C. 288, 312 S.E.2d 257 (1984), the Order in the Court of Common Pleas in *Tega Cay Water Service v. S.C.P.S.C.*, C/A No. 97-CP-40-0923 (September 25, 1998), and the Commission's Order No. 1999-191 in Application of Tega Cay Water Service, Inc, Docket No. 96-137-WS. *Id.* As requested by ORS at the hearings, TCWS submitted its letter specifying the testimony and other evidence to which it specifically objected on July 26, 2010.²

² The portions of customer testimony to which TCWS objected are identified as follows:

Witness Gene R. Esarove

Tr. Vol.1, p.. 19, lines 7-9

Witness Bernd Ebert

Tr. Vol.1, p. 44, l. 25 – p. 45, l. 15;

Tr. Vol.1, p. 47, ll. 4-14.

Witness Frank Rubbo

Tr. Vol.1, p. 49, l. 23 – p. 50, l. 17.

Witness Alana Howington

Tr. Vol.1, p. 99, l. 16 – p. 100, l. 22;

The Commission concludes that the Company's motion should be granted. Essentially, the objection raises the issue of whether an unsubstantiated customer testimony regarding quality of service issues is properly considered in the instant case. We conclude that it is not. The Commission notes that none of the customers substantiated their testimony in the sense that quantitative or scientific data demonstrating that service or facilities did not meet DHEC standards was presented for the Commission's consideration by any customer. Thus, the customer complaints are not substantiated as required by law and therefore cannot be considered. *See, Patton, supra; see also, Heater Utilities, Inc. v. PSC*, Op. No. 95-MO-365 (S.C. S.Ct. Filed December 8, 1995).

Accordingly, the motion is granted and customer testimony objected to by TCWS regarding quality of service is stricken and will not be considered by the Commission in this proceeding.

Tr. Vol.1, p. 101, l. 12 – p. 102, l. 15.

Witness Joseph Bright

Tr. Vol.1, p. 103, ll. 16-19;
Tr. Vol.1, p. 104, ll. 13-16;
Tr. Vol.1, p. 105, ll. 20-24;
Tr. Vol.1, p. 106, l. 3.

Witness Suzanne Roulette

Tr. Vol.1, p. 107, ll. 1-5.

The Company also objected to the following Hearing Exhibits filed with the Commission at the Tega Cay hearing purporting to support or corroborate the portions of testimony to which TCWS objects.

Hearing Exhibit #1 sponsored by Gene R. Esarove
Hearing Exhibit #12 sponsored by Alana Howington

B. TCWS OBJECTION TO THE TESTIMONY OF DON LONG

At the public hearing on May 19, 2010, TCWS objected to the testimony of Don Long who is not a customer of TCWS; rather he is a customer of Carolina Water Service, Inc. (“CWS”). In response, Mr. Long stated that he would testify “on the basis that Utilities, Incorporated is the parent company of both the company that serves [CWS customers] and that serves [TCWS customers].” [Tr. Vol. 1, p. 35, ll. 11-14.] Mr. Long further stated that “[t]he information [he would] provide has to do with both of those companies and the relationship to York County and [the] communities, as they work together. [Tr. Vol. 1, p. 35, ll. 14-18.] Following Mr. Long’s testimony, TCWS renewed its objection stating that Mr. Long’s testimony only addressed TCWS and CWS and that, therefore, his testimony was not relevant to these proceedings. [Tr. Vol. 1, p. 76, l. 8-20.]

The Commission agrees. Mr. Long is not a customer of TCWS and therefore is not affected by the rate increase at issue in this proceeding. Moreover, CWS is not a party to this proceeding and has not been afforded notice or an opportunity to respond to the assertions made by Mr. Long. Mr. Long’s testimony also did not address Utilities, Inc., the parent company of TCWS, as he purported. Therefore, the Commission finds that his testimony is properly excluded from the record of this proceeding.

III. FINDINGS OF FACT AND SUPPORTING EVIDENCE

1. TCWS currently provides water service to approximately 1800 customers and sewer service to approximately 1700 customers located in York County, South Carolina. As a

public utility, its operations are subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §§ 58-5-10 *et seq.* (1976 & Supp. 2008).

The evidence supporting this finding is contained in the Company's application and the testimony of its witnesses Haas [Haas, Tr. Vol. 2, p. 238, ll. 6-8] and Lubertozi [Lubertozi, Tr. Vol. 2, p. 372, ll. 2-3].

2. The appropriate test year for purposes of this proceeding is the twelve-month period ending December 31, 2008.

The evidence supporting this finding is contained in the Company's application, the testimony of its witness Lubertozi [Lubertozi, Tr. Vol. 2 p. 374, l. 22 – p. 375, l. 1], the testimony and exhibits of ORS witness Stutz [Stutz, Tr. Vol. 2 p. 516, ll. 16-18; Hearing Exhibit No. 26 at 1; Hearing Exhibit No. 27 at 1], and the testimony and exhibits of ORS witness Morgan [Morgan, Tr. Vol. 2 p. 558, ll. 17-21; Hearing Exhibit No. 29 at 1] which reflects that TCWS proposed a test year ending December 31, 2008, and that ORS accepted that as an appropriate test year. No party objected to the proposed test year.

A fundamental principle of the ratemaking process is the establishment of a test year period. In *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 478 S.E.2d 826 (1996), the Supreme Court observed that "[t]he 'test year' concept is very important in the rate-setting process. In order to determine what a utility's expenses and revenues are for purposes of determining the reasonableness of a rate, one must select a 'test year' for the measurement of the expenses and revenues." *Id.*, 478 S.E.2d 828, n. 1. The test year is established to provide a basis for making the most accurate forecast of the utility's rate

base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Pub. Serv. Comm'n*, 328 S.C. 222, 493 S.E.2d 92 (1997). The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments. *Id.* Accordingly, the Commission adopts the test year proposed by the Company and will make adjustments for any known and measurable changes outside the test year.

3. The Commission will use rate of return on rate base as a guide in determining just and reasonable rates.

The evidence supporting this finding is contained in the Company's application and the testimony of its witness Lubertozzi. [Lubertozzi, Tr. Vol. 2, p. 392, ll. 7-12.] Additionally, no other party of record proposed an alternative method for determining just and reasonable rates and the testimony of ORS's witnesses Stutz and Carlisle contemplate that return on rate base will be the methodology employed. [See Stutz, Tr. Vol. 2, p. 515, ll. 7-9; p. 517, ll. 16-18; Hearing Exh. No. 26 at 1, 13; Carlisle, Tr. Vol. 2, p. 534, ll. 12-14; Hearing Exh. No. 28 at 1.]

The Commission has wide latitude in selecting an appropriate rate-setting methodology. *Heater of Seabrook, supra*, 478 S.E.2d at 830. Even though S.C. Code Ann. § 58-5-240(H) (Supp. 2009) requires the Commission to specify an operating margin in all water and sewer cases, the Commission is not precluded by that statute from employing the return on rate base approach to ratemaking. *Id.* Operating margin "is less appropriate for utilities that have large rate bases and need to earn a rate of return sufficient to obtain the necessary debt and equity capital that a large utility needs for sound operation." *Id.* In the Company's last rate case, we

employed the return on rate base methodology. The Company's unadjusted rate base, according to its application, is \$1,987,971. ORS stated that TCWS's rate base was \$3,652,340 after pro forma adjustments. [Hearing Exhibit No. 27 at 1]. The City accepted TCWS's rate base set forth in its Application of \$2,973,277 [Hearing Exhibit No. 23 at 29]. As well, the City did not dispute the Company's pro forma projects which were verified by ORS to add \$688,009 in additional gross plant and \$5,100 in plant retirements for a net adjustment to plant of \$682,909. [Hartman, Tr. Vol. 2, p. 448, ll. 1-10; Stutz, Tr. Vol. 2, p. 529, ll. 14-21.]. Given the foregoing, and the uncontradicted testimony that the Company has a need to earn a fair and reasonable return on its investment, the Commission finds that the return on rate base methodology is the appropriate methodology to use in this case.

4. The determination of return on rate base requires consideration of three components, namely: capital structure, cost of equity (or return on equity) and the cost of debt.

The evidence supporting this finding is contained in the testimony of the Company's and ORS's expert witnesses on cost of capital. [Ahern, Tr. Vol. 2, p.141, l. 17 – p. 142, l. 13; Carlisle, Tr. Vol. 2, p. 536, ll. 19-21; p. 553, l. 20 – p. 554, l. 5.]

5. In determining the Company's appropriate return on rate base, the correct capital structure and cost of debt is that of TCWS's parent, Utilities, Inc., at December 31, 2003. Accordingly, for purposes of this proceeding, the correct capital structure 53.30% (debt) and 46.70% (common equity) and the correct cost of debt is 6.60%.

The evidence supporting this finding is contained in the Application [Exhibit B, Schedule B, p. 4] and the testimony of Company witness Lubertozzi [Lubertozzi, Tr. Vol. 2, p. 375, ll. 30-

31]. Use of the cost of debt of Utilities, Inc. is appropriate as TCWS obtains all of its external financing from its parent, which determines how much income TCWS can retain. This approach is also consistent with the analysis we employed in the Company's last rate case. [*Id.*]

6. The return on equity which will be used to establish rates for TCWS in this proceeding is 9.60%.

The evidence supporting this finding is contained in the testimonies of Company witnesses Lubertozzi and Ahern and ORS witness Carlisle. As noted above, and by witnesses Ahern and Carlisle in their testimonies, under the standards enunciated in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) and *Bluefield Water Works Improvement Co. v. Public Service Comm'n*, 262 U.S. 679 (1922), a utility is entitled to an opportunity to earn a fair rate of return. [Ahern, Tr. Vol. 2, p. 143, ll. 1-4; Carlisle, Tr. Vol. 2, p. 534, l. 16 - p. 535, ll. 19] The rate of return on common equity is a key figure used in calculating a utility's overall rate of return. *Porter v. South Carolina Public Service Commission*, 333 S.C. 12, 507 S.E.2d 328 (1998).

To determine the cost of equity, both Ahern and Carlisle employed the Capital Asset Pricing Model ("CAPM"), the Comparable Earnings Model ("CEM") and Discounted Cash Flow Model ("DCF"). In addition, Ahern also utilized the Risk Premium Model ("RPM"). Both DCF and CAPM are market-based approaches relying upon transactions in the securities markets and estimates of investor expectations. Charles F. Phillips, Jr., *The Regulation of Public Utilities* (1993) at 394.

Ahern testified that, in developing a fair rate of return recommendation for TCWS, she evaluated the return requirements of investors on the common stock of two groups of publicly held water service companies and then applied the DCF, CEM, CAPM and RPM methods to determine a recommended return on equity. [Ahern; Tr. Vol. 2, p. 143, ll. 9-14.] Based upon this analysis, Ahern recommended a range of 10.90% to 11.450%. [Ahern, Tr. Vol. 2, p. 142, ll. 7-13.]

Carlisle testified that, in developing a fair rate of return recommendation for TCWS, he evaluated the return requirements of investors on the common stock of two groups of publicly held water service companies and then applied the DCF, CEM and CAPM methods to determine a recommended return on equity. [Carlisle, Tr. Vol. 2, p. 536, ll. 4-9.] The analysis performed by Carlisle yielded a range of 9.08% to 10.07% and Carlisle recommended a return on equity of 9.57%. [Carlisle, Tr. Vol. 2, p. 553, l. 20 – p. 554, l. 2.]

City witness Hartman testified that guidelines employed by the Florida Public Service Commission, providing an option “default” return on equity which, would be a reliable and adequate basis to use as a reference in setting a return on equity for TWCS. [Hartman, Vol. 2, p. 448, l. 21 – p. 449, l. 2.] According to Hartman, Florida statutes authorize the establishment of a leverage formula to calculate a reasonable range of returns on equity for water and wastewater utilities. [Hartman, Vol. 2, p. 449, ll. 3-5.] Based on this leverage formula, Hartman testified that an appropriate return on equity for TCWS would be 10.36%.³ [Hartman, Vol. 2, p. 450, l. 4 – p. 451, l. 2.]

³ Although City witness Hartman purported to retreat from this position in his surrebuttal testimony, the testimony

We agree with the conclusions of witness Ahern for two reasons. First, unlike witness Ahern, the analysis of witness Carlisle does not make an adjustment for the risk associated with the small size of TCWS.⁴ We find such an adjustment appropriate and justification for a modification to the upper end of the range of returns on equity supported by witness Carlisle. Second, in employing an additional methodology to arrive at her judgment with respect to an appropriate range of returns on equity, i.e., RPM, witness Ahern's analysis provides additional support for the results arising from her DCF, CEM and CAPM model analyses.

Furthermore, the leverage formula advocated by City witness Hartman corroborates Ahern's analysis. The Commission recognizes that the statutory authorization of a leverage formula for utilities providing water and wastewater in Florida is neither binding nor applicable to water and wastewater utilities in South Carolina. Furthermore, the leverage formula advocated by City witness Hartman specifies that the return on equity calculated thereunder would not apply where the Company sponsors a cost of capital witness who recommends a return different from that proposed by the leverage formula. [Hearing Exhibit No. 23, p. 109-110, 120.] However, in recommending the leverage formula, Hartman proposes a business risk premium, which is similarly proposed by Company witness Ahern. [Hartman, Vol. 2, p. 449, l.

of Company witness Ahern elicited on cross examination by counsel for the City suggested that the City believes the Florida formula is reasonable. [Tr. Vol. 2, p. 210, l. 8 – p. 213, ll. 21.]

⁴ It was suggested through cross-examination of witness Ahern by the City that an adjustment for the small size of TCWS is inappropriate because the capital structure of its parent was proposed to be used by TCWS in this proceeding. [Tr. Vol. 2, p. 213, l. 1 – p. 215, l. 18.] We reject this suggestion given that, as witness Ahern pointed out, TCWS's parent is also far smaller than any of the proxy companies selected by either cost of capital witness in this proceeding. Additionally, the inclusion of an adjustment to account for the small size of TCWS is further supported by the Florida leverage formula recommended by the City. [Tr. Vol. 2, p. 213, ll. 15-21; Hearing Exhibit No. 23, p. 109-110, 120.]

16 – p. 450, l. 3; Ahern, Vol. 2, p. 146, l. 1 – p. 155, l. 19.] As well, Hartman's recommended return on equity calculated pursuant to the Florida leverage formula is comparable to the range recommended by Company witness Ahern. Therefore, while the Commission does not adopt the Florida leverage formula for use in this proceeding, we do recognize Hartman's results as a check for the reasonableness of Ahern's proposed return on equity.

However, based upon the adjustments set forth in the testimony of Company witness Lubertoizzi, which are discussed further hereinbelow, we set TCWS's return on equity at 9.60% for purposes of this proceeding. Lubertoizzi adopted several adjustments proposed by ORS witness Stutz, but also presented evidence that the Company had increased its gross plant in service. Including this additional plant, which the Commission finds appropriate as the adjustments are known and measureable and have been verified by ORS in its audit of the Company, and using the midpoint of Ahern's range would result in revenues which would exceed those that can be produced by the noticed rates in the Company's application. [Lubertoizzi Vol. 2, p. 400, ll. 17-19]. Because the Company is limited to the rates proposed in its application and noticed by the Commission, *see* S.C. Const. art. I, Sec. 22, the Commission finds that, using the adjustments proposed by ORS and TCWS, the rates and revenues originally proposed by the Company would generate a return on equity of 9.60%. *Cf. Hamm v. S.C. Publ. Serv. Comm. and Motor Truck Rate Bureau*, 289 S.C. 22, 27, 344 S.E.2d 600, 602-3 (1986) (recognizing that the Commission is not precluded from granting the full amount of rate relief requested even where a utility's application states a return which is lower than that produced by the proposed rates as a result of disallowance of certain expenses). Although this return is less than the range proposed

by Company witness Ahern, which the Commission finds reasonable, the return is within the range proposed by ORS witness Carlisle. Considering the limitations arising from the noticed rates, the Commission, therefore, finds that the return on equity to be used in setting rates in this proceeding should be 9.60%.

7. The Company provides adequate water and wastewater service to its customers and there is no basis to delay, much less deny, rate relief due to a poor “quality of service.”

The evidence supporting this finding is contained in the testimony of Company witness Haas. [Haas, Tr. Vol. 2, p. 238, l. 4 – p. 241, l. 20.] The evidence supporting this finding is also found in Hearing Exhibit No. 29 reflecting the conclusion of ORS that the Company’s water and wastewater facilities provide adequate service. [Hearing Exh. No. 29, p. 1.] Further, ORS’s review of the Company’s facilities determined that, during TCWS’s latest sanitary survey, DHEC rated the various water systems as “Satisfactory” and found that the Company was meeting all safe drinking water quality standards. [Morgan, Tr. Vol. 2, p. 561, ll. 17-21; Hearing Exh. No. 29, p. 1.] The Commission makes this finding taking into account the statements made by customers at the night hearing in this proceeding in which general, unsubstantiated complaints were aired regarding water quality and general objection made to an increase in rates.

With respect to water quality, we note that the Company is required by our regulations to “provide water that is potable and, insofar as practicable, free from objectionable odor, taste, color and turbidity.” 26 S.C. Code Ann. Regs. R. 103-770 (1976) (emphasis supplied). Although certain customers testified regarding “black rings” in plumbing fixtures, the Commission recognizes that water is provided to customers by TCWS from an outside bulk water provider,

namely York County. [Morgan, Tr. Vol. 2, p. 561, ll. 11-12.] Morgan recommended increased flushing of the system to at least once a month to reduce issues associated with many of the customer complaints. [Morgan, Tr. Vol. 2, p. 563, l. 21 – p. 564, l.2] However, the Commission agrees that water can contain naturally occurring bacteria which can be easily controlled through routine cleaning and sanitization of the plumbing fixtures and that flushing would not improve these issues but would only increase costs to the customer. [Haas, Tr. Vol. 2, p. 260, ll. 7-14.] Finally, as stated previously, TCWS's system meets all safe drinking water quality standards. [Morgan, Tr. Vol. 2, p. 561, l. 17-18.] Thus, the Commission recognizes that varying subjective opinions of individual customers is not in and of itself indicative of inadequate service.

Morgan testified that the Company did enter into a Consent Agreement with DHEC for its wastewater operations on September 30, 2009. [Morgan, Tr. Vol. 2, p. 559, ll. 15-16.] He stated that Consent Order 09-042-W detailed violations of the Pollution Control Act, S.C. Code Ann. § 48-1-10 to -350 (1987 & Supp. 2008), and National Pollutant Discharge Elimination System ("NPDES") Permits SC 0026743 and SC 0026751. [Morgan, Tr. Vol. 2, p. 559, ll. 15-16.] In addition, Morgan and certain customers at the night hearing testified that the Company had experienced several sanitary sewer overflows ("SSOs") during the test year.

In response, Haas testified that TCWS has been under increasingly stringent standards with respect to the phosphorous limits for the discharge from its plants. The Company submitted various proposals and engineering plans to address the issue; however, Haas stated that TCWS was unable to install the additional facilities to resolve the phosphorous limits by the deadlines set forth in the Schedule due to a necessary engineering redesign of the plant, and upon DHEC's

insistence, that the concurrent UV disinfection engineering plans be combined together in one project for each facility. [Haas, Tr. Vol. 2, p. 250, ll. 2-8.] The Company subsequently entered into a Schedule of Compliance with DHEC to complete these upgrades and the Company constructed new phosphorous treatment units and UV disinfection equipment in accordance with the Consent Order. Haas stated that both of these units are now in operation and should allow the plant to operate within the acceptable limits. [Haas, Tr. Vol. 2, p. 250, ll. 11-16.] Haas further stated that the Consent Order addressed SSOs on the wastewater collection system. [Haas, Tr. Vol. 2, p. 250, ll. 18-20.] Haas testified that the presence of grease and roots in collection lines caused most of the SSOs which, combined with the topography of the TCWS service area, caused a reportable discharge into the waters of the state. [Haas, Tr. Vol. 2, p. 251, ll. 13-16.] However, Haas stated that the Company tries to take proactive steps to avoid these issues by performing maintenance on the collection lines. City witness Hartman corroborated this testimony stating that TCWS does a “good job” at maintaining its collection system and cleaning its lines. [Tr. Vol. 2, p. 478, ll. 14-24.]

ORS witness Morgan testified that TCWS did not provide information concerning the time and duration of water service interruptions in its service area. [Morgan, Tr. Vol. 2, p. 559, ll. 9-14.] However, Company witness Haas stated that ORS is included on all Voice Reach notifications sent out to the customers involving any potential system interruptions, including situations of any planned work or activities, such as routine flushing. [Haas, Tr. Vol. 2, p. 249, ll. 3-5.] In addition, Haas stated that the regulations indicate that records be maintained involving interruptions which affect its entire system or major division and that this situation rarely

occurred. Even so, Haas stated that both ORS and DHEC were notified in each instance and in excess of the requirements. As well, TCWS provided ORS with records which reflected the date and the number of customers that were potentially affected by each interruption. [Haas, Tr. Vol. 2, p. 249, ll. 5-14.]

The Commission finds that the Company's response to the Consent Order, including the addition of new phosphorous and UV disinfection utilities, is reasonable. The Commission also advises TCWS that it is required to comply with all statutory and regulatory notification requirements of water and wastewater utilities. However, the Commission finds that TCWS has kept ORS and DHEC apprised of any issues relating to interruptions in its service area. Additionally, the Commission understands that customers do not generally desire that their utility rates be increased. We cannot, however, consistent with our duty to set just and reasonable rates, base our decision upon customer desire to avoid rate increases. Rather, we are obligated to balance the interests of the customer with the utility's right to earn a fair return. *South Carolina Cable Television Ass'n v. Public Service Comm'n*, 313 S.C. 48, 437 S.E.2d 38 (1993). Similarly, we cannot base our decision on unsubstantiated customer complaints under the rubric that such complaints reflect the Company's "quality of service." The Commission is entitled to impose reasonable requirements on jurisdictional utilities to ensure that adequate and proper service is rendered to their customers. *Patton v. S.C. Public Service Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984). Accordingly, we may delay implementation of a rate adjustment where inadequate facilities (i.e., those that do not meet DHEC requirements) result in service that is not adequate and proper. *Id.* Because we have concluded that the Company provides adequate

and proper service, however, there is no basis upon which we may find that Company's quality of service justifies a delay in implementation of rate relief that is otherwise justified.

8. Using the capital structure of Utilities, Inc. consisting of 53.3% debt and 46.7% common equity, a cost of debt of 6.60%, and a cost of equity of 9.60%, we conclude that an appropriate overall rate of return on rate base of 8.00% is appropriate and should be authorized for TCWS. The evidence supporting this conclusion is found in the testimony of Company witnesses Ahern and Lubertozzi. [Ahern, Tr. Vol. 2, p. 142, ll. 7-13; Hearing Exhibit No. 16, p. 11; Lubertozzi, Tr. Vol. 2, p. 375, ll. 30-31; p. 401, ll. 15-17] The following table indicates the capital structure of the Company, the cost of debt, the cost of equity as approved in this Order, and the resulting rate of return on rate base:

<u>TABLE A</u>			
	RATIO	EMBEDDED COST	OVERALL COST
Long-term Debt	53.30%	6.60%	3.52%
Common Equity	<u>46.70%</u>	9.60%	<u>4.48%</u>
TOTAL	<u>100.00%</u>		<u>8.00%</u>

9. By its Application, TCWS is seeking an increase in its rates and charges for water and sewer service which, if granted, would result in \$235,621 of additional revenues to TCWS.

The evidence for the finding concerning the amount of the requested rate increase is contained in the Application filed by TCWS, in the exhibits of ORS witness Stutz, and in the exhibits of City witness Hartman. The Application of TCWS indicates that it is seeking

additional revenues of \$79,390 from water operations, additional revenues of \$159,612 from sewer operations, which, after adjustment for uncollectible accounts in the amount of (\$3,381), totals \$235,621. [Application, Exhibit B, Schedule B, p. 1 of 4.] Additionally, exhibits sponsored by ORS witness Stutz demonstrate that under the rates proposed in the Application TCWS would see an increase in revenues of \$235,621. [Hearing Exhibit No. 26, p. 9.] City witness Hartman also sponsored exhibits which demonstrates that the Company is seeking an increase from its as adjusted per book revenues of \$235,621. [Hearing Exhibit No. 23, p. 25.] No party presented any evidence that the requested increase does not amount to \$235,621. Therefore, the Commission finds that TCWS is seeking an increase in its revenues of \$235,621.

10. The appropriate operating revenues for TCWS for the test year under present rates and after accounting and pro forma adjustments are \$1,131,299.

The evidence supporting this finding is in the testimony of Company witness Lubertoizzi, ORS witness Stutz and City witness Hartman. The application of TCWS shows per book test year total operating revenues of \$1,119,943. [Application, Exhibit B, Schedule B, p. 1 of 4.] This amount included “Uncollectibles” of (\$7,790) and miscellaneous revenues of \$24,252. [*Id.*] City Witness Hartman adopted the Company’s test year as adjusted revenues in formulating his proposed adjustments. [Hearing Exhibit No. 23, p. 23-25.] ORS adjusted test year operating revenues by \$2,257 to reflect the current customer base at current rates with water being adjusted by (\$1,074) and sewer being adjusted by \$3,331. [Hearing Exh. No. 26, pp. 1-4.] ORS also adjusted “Uncollectibles” by \$5,679 and miscellaneous revenues by \$3,420 in the per books test

year figures. [*Id.*] Thus, ORS computed per book test year total operating revenues of \$1,131,299.

Company witness Lubertoizzi agreed with the adjustment to water and sewer revenues, uncollectibles, and miscellaneous revenues proposed by ORS. [Lubertoizzi, Tr. Vol. 2, p. 397, ll. 6-9.] Because the Company has adopted ORS's adjustments on water and sewer revenues, uncollectibles, and miscellaneous revenues, the Commission finds ORS's testimony in this regard appropriate.

11. The appropriate operating expenses for TCWS for the test year under present rates and after accounting and pro forma adjustments and adjustments for known and measurable out-of test-year occurrences are \$990,282.

The evidence supporting this finding is contained in the Company's application and in the testimonies of Company witness Lubertoizzi and ORS witness Stutz. ORS offered certain adjustments to the Company's proposed operating expenses for the test year, the majority of which the Company accepted. [Stutz, Tr. Vol. 2, p. 518, l.11 – p. 523, l.4; p. 529, ll. 2-4; Lubertoizzi, Tr. Vol. 2, p. 397, ll. 10-21.] City witness Hartman originally proposed adjusting operations and maintenance expenses related to maintenance, power, chemicals, and other miscellaneous services and charges to account for a purported excessive water loss. Hartman also proposed adjusting operations and maintenance expenses related to maintenance, power, chemicals and other miscellaneous services and charges to account for a purported excessive amount of inflow and infiltration. These operating expenses, the adjustments agreed to by the

Company and ORS, or proposed by ORS and proposed by the City, which affect operating expenses, are as follows:

(A) Operators' Salaries:

(1) Position of TCWS: Initially, TCWS proposed an adjustment to salaries of (\$40,714), to be annualized as of December 31, 2008.

(2) Position of ORS: ORS proposed to adjust operators' salaries by annualizing the latest available salary information as of March 2010. ORS stated that a portion of each employee's salary was allocated to TCWS based on the amount of work each does for TCWS directly. ORS computed annualized salaries of \$178,364, less per book salaries of \$195,274 for an adjustment of (\$16,910).

(3) Position of City: City originally proposed to adjust salaries related to maintenance for water operations in the amount of (\$2,645) to adjust for increased expenditures due to purported excessive water loss. In surrebuttal testimony and at hearing, the City withdrew its proposed expense adjustments related to the purported excessive water loss. City also proposed to adjust salaries related to maintenance for sewer operations in the amount of (\$17,655) to reflect an adjustment for expenses associated with treating a purported excessive amount of inflow and infiltration ("I/I") on the Company's wastewater system.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

We find the City's proposed adjustments related to excessive water loss to be without merit and refuse to adopt these for several reasons. First, the City withdrew this proposed

adjustment at hearing. Also Company witness Haas testified that the “water loss” experienced by TCWS in 2006 was the result of issues with the York County system, and that the overflow occasionally experienced by TCWS was simply a means of accommodating York County’s operation of its bulk water boost pumps without doing damage to the County’s system, TCWS’s system, or customer premises. Haas further stated that York County has completed the installation of an additional storage tank which now alleviates most surges which lead to the experienced overflows. [Haas, Vol. 2, p. 253, ll. 10-21.] As well, Haas stated that, based upon the billing arrangement with York County, the Company experienced no non-account water during the test year since York County did not charge TCWS for any amount of water in excess of that metered at customer premises. [Haas, Vol. 2, p. 256, ll. 9-11.] Furthermore, City witness Hartman sponsored an exhibit which identified an unaccounted for water amount of 3.95% for the TCWS system which is well within the American Water Works Association standard of 10% proposed by Hartman and previously adopted by this Commission as reasonable in Order No. 2002-866, dated December 23, 2002, in Docket No. 2002-239-W/S. [Hearing Exhibit No. 23 p. 72.] Following review of the information submitted by the Company, Hartman withdrew his proposal to adjust for water loss. [Tr. Vol. 2, p. 471, l. 10 – p. 472, l. 4.]

Regarding the City’s proposed adjustments related to excessive I/I, the Commission also rejects Hartman’s testimony with respect to the purported I/I on the TCWS system is based upon a desktop study conducted in 1997 and 1998 and set forth in a draft report prepared for the City in 1999. On cross examination, Hartman acknowledged that he had not conducted any updated

review to determine what the current I/I for the TCWS system might be.⁵ Additionally, the 1999 report sponsored by Hartman recommended that the Company engage in various maintenance, repairs and upgrades of its systems in order to reduce I/I. [Hearing Exhibit No. 23, p. 79-80.] Haas testified that TCWS had engaged in the types of programs recommended by Hartman, and Hartman acknowledged that those programs “theoretically would address issues with I/I.” [Haas, Vol. 2, p. 258, l. 4 – p. 259, l. 5; Hartman, Vol. 2, p. 456, ll. 20-22.]

“Opinion testimony of an expert witness may be based upon facts within his own knowledge or upon hypothetical questions embracing facts supported by the evidence and relating to the particular matter upon which the expert opinion is sought. . . .” Young v. Tide Craft, Inc., 270 S.C. 453, 468, 242 S.E.2d 671, 678 (1978) quoting 31 Am.Jur.2d, Expert and Opinion Evidence § 36 (1967). The opinion of a witness is without probative value unless there is an evidentiary showing of the facts upon which the opinion is predicated. Hamm v. S. Bell Tel. & Tel. Co., 302 S.C. 132, 136, 394 S.E.2d 311, 313 (1990); Parker v. S. Carolina Pub. Serv. Comm’n, 281 S.C. 215, 217, 314 S.E.2d 597, 599 (1984). Hartman acknowledged that he did not

⁵ At hearing, Hartman stated that the City requested in discovery the current level of I/I and any documents in the Company’s possession relating to I/I [Hartman, Vol. 2, p. 3, l. 23 – p. 4, l. 3; p. 482, ll. 13-16] and that he or his staff had participated in the drafting of the City’s discovery requests. [Tr. Vol. 2, p. 482, l. 21 – p. 483, l. 2.] TCWS responded that it was “not in possession of information responsive to [that] request.” [Hearing Exhibit No. 25, p. 2-3, 8-9.] Furthermore, Hartman acknowledges that TCWS would have been required to create documents to provide the requested information. [Hartman, Vol. 2, p. 457, ll. 3-7 (“...I find it perplexing that TCWS did not **perform** this calculation...”) Additionally, Hartman acknowledged that he could have performed an updated calculation if he had requested information from the Company as to rainfall amounts, lift station capacity and run times, water consumption and wastewater flow records. [Tr. Vol. 2, p. 488, ll. 9-18.] It is, at the least, perplexing that a registered professional engineer, with the extensive educational and work background of Mr. Hartman, would not have requested that the City issue discovery requests for the five specific data sets that Hartman identified as being necessary to an I/I calculation. Because he did not do so, TCWS was under no obligation to speculate as to the information Hartman was seeking to conduct an I/I calculation. Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 108, 410 S.E.2d 537, 541 (1991) (“In determining the sufficiency of responses to interrogatories, each **answer** must be read in the light of the question asked.”)

know the current I/I on TCWS system. *See Hamm v. S.C. Public Service Commission*, 309 S.C. 282, 422 S.E.2d 110 (1992) (a sufficient factual basis for expert opinion testimony is provided through oral testimony of the witness). Moreover, because the expenses of a utility are presumed reasonable when incurred in good faith, the burden is on the City to raise the specter of imprudence. Because the City admittedly did not request the necessary information in discovery, the report upon which Hartman relies is over ten years old, and TCWS has engaged in programs which Hartman acknowledges would theoretically lower the I/I on the Company's system, the Commission must reject City's recommendation as speculative.⁶ "[V]erdicts may not be permitted to rest upon surmise, conjecture or speculation." *Hanahan v. Simpson*, 326 S.C. 140, 149, 485 S.E.2d 903, 908 (1997). In addition, the Commission recognizes that a reasonable amount of I/I is appropriate in wastewater utility operations. According to Company witness Haas, DHEC guidelines specify that, in engineering and permitting a wastewater treatment plant, a reasonable amount of I/I is taken into account when considering the facility's wastewater flow.

⁶ Even if Hartman's testimony was not speculative, the sponsored report does not support his assertion that TCWS experienced an excessive level of I/I in the amount of 23%. In his direct testimony, Hartman testified that the I/I level for TCWS was 19.3% and 26.7% in 1997 and 1998 respectively. [Hartman, Tr. Vol. 2, p. 447, ll. 4-6 These numbers are reflected in the excerpt from the 1999 draft study, in which Hartman reported that "[a]pproximately 68,000 to 100,000 gpd of the total wastewater flow is identified as I/I" which "equates to 19 to 27% of the total wastewater flow." Hearing Exhibit No. 23, p. 77, Table 3-11, indicates that TCWS experienced an average wastewater flow of 351,000 gpd in 1997 with a total wastewater flow attributed to I/I of 67,900 gpd. This calculates to a total I/I of 19.3% (67,900/351,000) as reflected in the report. [Hearing Exhibit No. 23, p. 74; Tr. Vol. 2, p. 447, ll. 4-6.] In 1998, the report indicates that TCWS experienced an average wastewater flow of 374,000 gpd with a total wastewater flow attributed to I/I of 99,700 gpd. [Hearing Exhibit No. 23, p. 77.] This calculates to a total I/I of 26.7% (99,700/374,000) as reflected in the report. [Hearing Exhibit No. 23, p. 74; Tr. Vol. 2, p. 447, ll. 4-6.] Hartman acknowledged that at least 15% I/I for a system is reasonable. [Tr. Vol. 2, p. 480, ll.9-11.] Therefore, at most, TCWS would have experienced an 8% excessive amount of I/I in 1999. While the Commission has rejected Hartman's proposal in this regard as speculative (*see* discussion hereinabove), a close analysis of Hartman's testimony and report also does not support his assertions that certain expenses should be reduced by 23%. This would implicitly mean that no level of I/I on a wastewater system is reasonable which, Hartman himself acknowledges is not industry standard. *Cf.* 24B S.C. Code Ann. Regs. 61-67.300.B.II (Supp. 2009); Order No. 88-497, dated May 23, 1988, Docket No. 87-265-S.

[Tr. Vol. 2, p. 311, l. 10 – p. 312, l. 5.] Specifically, DHEC has adopted Environmental Protection Agency guidelines which provide I/I, non-excessive if the total daily flow during periods of high groundwater does not exceed 120 gallons per capita per day, and during a storm event does not exceed 275 gallons per capita per day. [Tr. Vol. 2, p. 312, ll. 8-14.] *See also* 24B S.C. Code Ann. Regs. 61-67.300.B.11 (Supp. 2009). Based on these criteria, the amount of I/I indicated in Hartman’s 1999 draft study is well below what the EPA and DHEC would consider excessive.⁷ [Tr. Vol. 2, p. 312, ll. 16-23.] As well, the Commission notes that ORS witness Morgan performed an evaluation of the system and did not note any issues with excessive I/I.

Although the Company continuously addresses I/I on its system as discussed by Company witness Haas and as reflected in the 1999 draft study, *see* Tr. Vol. 2, p. 258, l. 13 – p. 259, l. 5, Hearing Exhibit No. 23, p. 79, and no substantial evidence has been presented that the Company experiences an excessive level of I/I, the Commission nevertheless finds that the Company should re-examine the amounts of inflow and infiltration within its wastewater collection system. The Company shall conduct this analysis and report its findings to the ORS within one hundred twenty days (120) of the date of this order. The Company shall be allowed to recover the costs of this study in its next rate case proceeding, subject to audit by ORS.

(B) Consumer Price Index Adjustments

(1) Position of TCWS: The Company initially proposed to increase certain maintenance and general expenses by 5.69% to reflect inflation utilizing the Consumer Price Index (“CPI”) for Water and Sewerage Maintenance developed by the United States Department

⁷ The Commission also recognizes that customers may be responsible for introducing additional flow into a wastewater system without the Company’s knowledge. *See* [Tr. Vol. 2, p. 283, ll. 16-19.]

of Labor Bureau of Labor Statistics, the effect of which would have been to add \$17,102 to test year expenses. At hearing, TCWS agreed with the position of ORS to disallow this adjustment.

(2) Position of ORS: In its Adjustment items numbers 5, 7, 9, 10, 14 and 17, ORS disagreed with the Company's proposal to adjust expenses using the CPI on the grounds that the adjustments would be made based upon economic forecasts which are not known and measureable. Accordingly, ORS recommended that the related adjustment to operating expense charged to plant should be rejected.

(3) Position of City: City originally proposed to adjust the Company's proposed CPI percentage to reflect the period from 2008 to present. Based upon an inflationary index for water and wastewater utilities used by the Florida Public Service Commission, City witness Hartman recommended a total CPI increase of 3.12%. At hearing, City agreed with the position of ORS to disallow this adjustment

(4) Decision of the Commission: Upon consideration of this expense item, the Commission agrees with ORS, as the Company and City have concurred that this adjustment should not be made.

(C) Purchased Power

(1) Position of TCWS: The Company did not propose an adjustment to Purchased Power expenses.⁸

⁸ In the Application, TCWS, proposed to increase expenses for Purchased Power to reflect CPI, but did not propose a separate adjustment for Purchased Power. The Commission addresses the Company's adjustment to Purchased Power and other categories of expenses in Section (B) hereinabove.

(2) Position of ORS: ORS did not propose an adjustment to Purchased Power expenses.

(3) Position of City: City proposed to adjust Purchased Power by (\$11,436) to reflect expenses incurred due to purported excessive I/I on the TCWS system.

(4) Decision of Commission: As discussed more fully in Section (A), hereinabove, the Commission finds that the testimony of City witness Hartman regarding I/I is speculative, not supported by a sufficient factual basis and fails to demonstrate that I/I exceeds an allowable standard. The Commission therefore disagrees with City's proposed adjustment.

(D) Purchased Sewer & Water

(1) Position of TCWS: TCWS proposed to adjust purchased water for a 2007 accrual and a 2007 payment booked in the test year for a total adjustment of \$80,152.

(2) Position of ORS: ORS similarly proposed to adjust purchased water or a 2007 accrual and a 2007 payment booked in the test year for a total adjustment of \$80,152.

(3) Position of City: City did not propose an adjustment for Purchased Water & Sewer.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(E) Maintenance and Repair Expense

(1) Position of TCWS: TCWS proposed an adjustment to Maintenance and Repair expenses in the amount of (\$5,305) to remove deferred maintenance amortization per

commission ordered adjustments in Docket No. 2006-97-W/S. At hearing, TCWS agreed with ORS's proposed adjustment.

(2) Position of ORS: ORS proposed to adjust maintenance and repair expenses in the amount of \$13,813 to include items from plant that should have been expensed during the test year and remove the deferred maintenance account per Commission Order No. 2006-582.

(3) Position of City: City proposed to adjust Maintenance and Repair Expense by (\$42,085) to reflect expenses incurred due to purported excessive I/I on the TCWS system. City also accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustments proposed by ORS, as agreed to by TCWS and City, to reflect an adjustment to maintenance and repair expenses. As discussed more fully in Section (A), hereinabove, the Commission finds that City failed to present substantial evidence regarding I/I on the TCWS system and that the testimony of City witness Hartman is speculative and not supported by a sufficient factual basis. The Commission therefore disagrees with City's proposed adjustment.

(F) Maintenance Testing

(1) Position of TCWS: TCWS proposed to adjust Maintenance Testing expenses in the amount of (\$8,169) to adjust for DHEC fees. At hearing, TCWS agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to adjust Maintenance Testing expenses to remove pass-through DHEC fees and undocumented expenses and to reflect actual billed DHEC amounts for operating permits. ORS's adjustment to these expenses totaled (\$16,092).

(3) Position of City: City proposed to adjust Maintenance Testing Expense by (\$2,509) to reflect expenses incurred due to purported excessive I/I on the TCWS system. City also accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustments proposed by ORS, as agreed to by TCWS and City, to reflect an adjustment to Maintenance Testing Expenses. As discussed more fully in Section (A), hereinabove, the Commission finds that City failed to present substantial evidence regarding I/I on the TCWS system and that the testimony of City witness Hartman is speculative and not supported by a sufficient factual basis. The Commission therefore disagrees with City's proposed adjustment.

(G) Chemicals

(1) Position of TCWS: TCWS did not propose an adjustment to Chemicals.⁹

(2) Position of ORS: ORS proposed to remove (\$10,352) for chemicals associated with the operations and maintenance of the retired chlorinator/dechlorinator system.

(3) Position of City: City proposed to adjust Chemical Expense by (\$2,742) to reflect expenses incurred due to purported excessive I/I on the TCWS system.

⁹ In the Application, TCWS, proposed to increase expenses for Chemicals to reflect CPI, but did not propose a separate adjustment for Chemicals. The Commission addresses the Company's adjustment to Chemicals and other categories of expenses in Section (B) hereinabove.

(4) Decision of Commission: Upon consideration of this expense item, the Commission adopts the adjustments proposed by ORS to reflect an adjustment to Chemical Expenses related to the retirement of chlorination/dechlorination equipment on the Company's system. As discussed more fully in Section (A), hereinabove, the Commission rejects the City's contention regarding I/I on the TCWS system. The Commission therefore disagrees with City's proposed adjustment.

(H) Transportation Expenses

(1) Position of TCWS: The Company proposed to adjust this expense by (\$4,136) to reflect the Equivalent Residential Connection ("ERC") allocation methodology. At hearing, TCWS agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to adjust transportation expenses to reflect allocations based on employee usage of forty-three (43) vehicles in South Carolina. The usage of these vehicles, including fuel and repairs, amounted to total annual expense per vehicle of \$7,253. ORS then allocated this unit cost to thirteen (13) operators based on the percentage of time each employee performed work for TCWS. ORS computed vehicle expenses for these 13 operators of \$24,016 less the per book amount of \$37,915 for an adjustment of (\$13,899).

(3) Position of City: City did not propose an adjustment for Transportation Expense.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(I) Operating Expense Charged to Plant

(1) Position of TCWS: TCWS proposed to increase Operating Expense Charged to Plant to reflect the increase in salaries, taxes and benefits for operators in the amount of (\$6,997). At hearing, TCWS agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to charge a portion of employees' salaries, taxes and benefits to plant for time spent on capital projects. ORS computed operating expenses charged to plant of (\$53,909), less the per book amount of (\$52,642) for an adjustment of (\$1,267).

(3) Position of City: City did not propose an adjustment for Operating Expense Charged to Plant. However, City accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(G) Outside Services

(1) Position of TCWS: TCWS did not propose an adjustment to this item but agreed with the ORS proposal at hearing.

(2) Position of ORS: ORS proposed to remove undocumented expenditures of (\$492) from outside services.

(3) Position of City: City proposed to adjust Outside Services Expense by (\$2,980) to reflect expenses incurred due to purported excessive l/l on the TCWS system. City also accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company. As

discussed more fully in Section (A), hereinabove, the Commission rejects the City's contention regarding I/I on the TCWS system. The Commission therefore disagrees with City's proposed adjustment.

(J) Office Salaries

(1) Position of TCWS: TCWS initially proposed an adjustment of (\$23,393) to annualize office salaries. At hearing, TCWS agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to annualize office salaries by annualizing the latest available salary information as of March 2010. ORS allocated a portion of the office salaries to TCWS based on the number of TCWS customers served. Also, ORS expensed employees of Water Service Corporation (WSC) to TCWS based on the percentage of ERCs. As well, ORS adjusted salaries to reflect the consolidation of the Company's customer service functions and the allocation of salaries of twenty-five (25) employees for the Company's new centralized customer service call centers. ORS computed annualized salaries of \$61,460 less per book salaries of \$105,000, for an adjustment of (\$43,540).

(3) Position of City: City did not propose an adjustment for Office Salaries.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(K) Office Supplies and Other Office Expense

(1) Position of TCWS: TCWS did not propose to adjust Office Supplies and Other Office Expenses¹⁰ but agreed with the ORS proposal at hearing.

¹⁰ In the Application, TCWS, proposed to increase expenses for Office Supplies & Other Office Expense to reflect

(2) Position of ORS: ORS proposed to adjust office supplies and other office expenses for nonallowable expenditures of (\$1,272).

(3) Position of City: City did not propose an adjustment to this item, but accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS agreed to by the Company and City.

(L) Rate Case Expenses:

(1) Position of TCWS: TCWS proposed an adjustment for total rate case expenses in the amount of \$126,886 incurred in connection with this proceeding amortized over three years for an adjustment of (\$12,293). These expenses included legal and consulting fees, direct time spent by corporate office staff, travel and associated expenses.

(2) Position of ORS: ORS proposed to amortize verified documented rate case expenses incurred for this rate case proceeding over a five-year period for an adjustment of (\$40,270).

(3) Position of City: City did not propose an adjustment to this item.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the position of TCWS and approves rate case expenses in the amount of \$126,866 amortized over three years resulting in an adjustment of (\$12,293).

(M) Annualize Pension and Other Benefits:

CPI, but did not propose a separate adjustment for this expense item. The Commission addresses the Company's adjustment to Office Supplies & Other Office Expense and other categories of expenses in Section (B) hereinabove.

(1) Position of TCWS: TCWS proposed to annualize pension and other benefits associated with the wage adjustment for operators and office employees and proposed an adjustment of \$4,804. At hearing, TCWS agreed with the ORS position on this adjustment.

(2) Position of ORS: ORS agreed that an adjustment was appropriate in this regard, and proposed to annualize pension and other benefits associated with the salary adjustment for operators and office employees. ORS did not include pension and benefits for part-time employees. ORS computed the total computed pension and other benefits in the amount of \$66,272, less the per book amount of \$62,718 resulting in an adjustment of \$3,554.

(3) Position of City: City did not propose an adjustment to this item but, at hearing, accepted the adjustment of ORS.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company and City.

(N) Miscellaneous Expense

(1) Position of TCWS: TCWS did not propose an adjustment for miscellaneous expenses but agreed with the ORS position on this adjustment at hearing.

(2) Position of ORS: ORS proposed to reduce miscellaneous expenses by (\$1,444).

(3) Position of City: City proposed to adjust Miscellaneous Expense by (\$2,079) to reflect expenses incurred due to purported excessive I/I on the TCWS system. City also accepted ORS's adjustments at hearing.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company. As discussed more fully in Section (A), hereinabove, the Commission rejects the City's contention regarding I/I on the TCWS system. The Commission therefore disagrees with City's proposed adjustment.

(O) Depreciation Expense Adjustment:

(1) Position of TCWS: TCWS proposed an adjustment of (\$90,781) to annualize Depreciation Expense using the gross depreciable plant at the end of the year plus pro forma projects multiplied by their respective depreciation rates. TCWS's adjustment also reflects the Company's ERC allocation methodology for vehicles and computers. At hearing, TCWS agreed with the position of ORS on depreciation expense adjustment.

(2) Position of ORS: ORS proposed to annualize Depreciation Expense for known and measurable plant in service through June 30, 2010. ORS adjusted for net plant additions, capitalized time and plant to be paid by third parties. ORS's total net adjustment to Depreciation Expense totaled (\$49,468).

(3) Position of City: City did not propose an adjustment to Depreciation Expense.

(4) Decision of the Commission: Upon consideration of these expense items, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(P) Payroll Taxes

(1) Position of TCWS: TCWS initially proposed an adjustment in the amount of (\$6,917) for payroll taxes associated with the adjusted test year salaries. At hearing, TCWS agreed with the ORS position on this adjustment.

(2) Position of ORS: ORS similarly proposed to adjust for payroll taxes associated with the wage adjustment including FICA, SUTA and FUTA taxes. ORS computed taxes of \$18,840 less the per book amount of \$26,255 resulting in an adjustment of (\$7,415).

(3) Position of City: City did not propose an adjustment to Payroll Taxes.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(Q) Utility/Commission Taxes & Gross Receipts Tax

(1) Position of TCWS: TCWS proposed an adjustment for Utility/Commission Taxes and Gross Receipts Taxes associated with as adjusted revenues in the amount of (\$9,773). The Company agreed at hearing to ORS's proposed adjustment in this regard.

(2) Position of ORS: ORS proposed to adjust Utility/Commission taxes and Gross Receipts taxes by a factor of .0095919 to account for increases in Commission and ORS administration costs and a revenue tax from the Department of Revenue resulting from upward adjustments in revenue. This factor was applied to pro forma revenues of \$1,131,299 for a total adjustment to this expense item of (\$6,694).

(3) Position of City: City did not propose an adjustment to Utility/Commission Taxes and Gross Receipts Taxes.

(4) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(R) Taxes Other Than Income – Test Year

(1) Position of TCWS: The Company proposed an adjustment for taxes other than income in the amount of (\$35,779). At hearing, TCWS agreed to the ORS position on this item.

(2) Position of ORS: ORS also proposed to adjust taxes other than income for personal property tax, general tax, and real estate tax. ORS's total proposed adjustment for other taxes was \$35,779.

(3) Position of City: City did not propose an adjustment to Taxes Other than Income – Test Year.

(4) Decision of the Commission: Upon consideration of this item, the Commission adopts the ORS position on this adjustment which was agreed to by the Company.

(S) Income Taxes:

(1) Position of TCWS: TCWS proposed to adjust taxes for accounting and pro forma adjustments. TCWS used a 5% rate for state taxes and a 35% rate for federal taxes.

(2) Position of ORS: ORS also proposed to adjust for the effect of income taxes after accounting and pro forma adjustments. Like TCWS, ORS used a 5% rate for state taxes and a 35% rate for federal taxes.

(3) Position of City: City did not propose an adjustment to Income Taxes.

(4) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust taxes for accounting and pro forma adjustments. The

Commission finds that a 5% rate for state taxes and a 35% rate for federal taxes are appropriate as those are the actual tax rates that apply to TCWS. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for Income Taxes of (\$6,266) for the tax effect of accounting and pro forma adjustments.¹¹

(T) Amortization of Contributions in Aid of Construction (CIAC):

(1) Position of TCWS: TCWS proposed to adjust the amortization for CIACs using a 1.50% depreciation rate. The total of TCWS's proposed adjustment in this regard was \$43,120.

(2) Position of ORS: ORS proposed to utilize the same depreciation rate as TCWS. Utilizing a gross per books CIAC amount of (\$8,681,968), ORS calculates an amortization amount of (\$130,230). Subtracting the per book amount of (\$173,350) yields a total adjustment of \$43,120.

(3) Position of City: City did not propose an adjustment to Amortization of CIAC.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

¹¹ Our analysis of this expense Item, as well as our analysis of expense Item U, is affected by our determination of interest expense. However, because we have heretofore only recognized interest expense itself as an allowable expense in cases in which we have employed the operating margin methodology (*see, e.g., In re Application of Palmetto Utilities, Inc.*, Order No. 97-699, Docket No. 96-376-S, August 12, 1997), we will address the Company's interest expense in the portion of our order calculating the resultant operating margin as required by S.C. Code Ann. § 58-5-240(H) (Supp. 2008).

(U) Interest During Construction

(1) Position of TCWS: TCWS proposed to remove the income associated with capitalized interest for projects under construction in the amount of \$24,894.

(2) Position of ORS: ORS also proposed to remove the income associated with capitalized interest for projects under construction in the amount of \$24,894.

(3) Position of City: City did not propose an adjustment to Interest During Construction.

(4) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(T) Taxes Other than Income – Proposed Increase

(1) Position of TCWS: The Company proposed to increase Taxes Other Than Income by \$2,689 to reflect the effect of the proposed increase. At hearing, TCWS agreed to the ORS methodology used in determining the adjustment for this item.

(2) Position of ORS: ORS proposed that Taxes Other Than Income be adjusted to reflect the effect of the proposed increase, using a factor of 0.0095919 (0.0065919 for the Commission and ORS and 0.003 for the Department of Revenue) to arrive at an adjustment of \$2,304.

(3) Position of City: City did not propose an adjustment Taxes Other than Income related to the Proposed Increase, but accepted ORS's methodology used in determining the adjustment for this item.

(4) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust Taxes Other Than Income to reflect the effect of the proposed increase. The Commission adopts the method proposed by the Company and ORS to adjust Taxes Other Than Income to reflect the effect of the proposed increase. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for Taxes Other Than Income for the proposed increase in the amount of \$2,689.

(U) Income Taxes – Proposed Increase

(1) Position of TCWS: The Company proposed that Income Taxes be established using current tax rates on calculated taxable income, which yields \$86,883 in allowable income tax. At hearing, the TCWS agreed with the ORS methodology used in determining the adjustment for this item.

(2) Position of ORS: ORS proposed that Income Taxes be established after taking into account the proposed increase, which yields \$90,973 in allowable income tax.

(3) Position of City: City did not propose an adjustment Income Taxes related to the Proposed Increase, but accepted ORS's methodology used in determining the adjustment for this item.

(4) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust Income Taxes to reflect the effect of the proposed increase. The Commission adopts the method proposed by the Company and ORS to adjust Income Taxes to

reflect the effect of the proposed increase. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for Income Taxes for the proposed increase in the amount of \$86,884.

Summary of Adopted Adjustments to Expenses:

The total effect of the adjustments to test year expenses adopted herein increase Operating and Maintenance Expenses by \$45,305, decrease General and Administrative Expenses by (\$55,587), decrease Depreciation Expenses by (\$59,712), increase Taxes Other Than Income by \$21,670, increase Income Taxes by \$16,450, and increase Amortization of CIAC by \$43,120. The net effect of the adjustments adopted herein on Total Operating Expenses is to increase Total Operating Expenses by \$21,528. Thus, operating expenses for the test year under present rates and after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences are \$1,001,181.

The following table indicates the Company's gross revenues for the test year after adjustments approved herein, under the presently approved rate schedules; the Company's operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences approved herein; and the rate of return on rate base under the presently approved schedules for the test year:

TABLE B

	<u>Before Increase</u>
Operating Revenues	\$1,131,299
Operating Expenses	<u>\$1,001,181</u>
Net Operating Income	\$130,118
ADD: Allowance for Funds Used During Construction	<u>\$0</u>
 TOTAL INCOME FOR RETURN	 <u><u>\$130,118</u></u>
 Return on Rate Base	 <u><u>3.54%</u></u>

12. The appropriate rate base for TCWS for the test year after accounting and pro forma adjustments and adjustments for known and measurable occurrences outside the test year is \$3,675,225.

The evidence supporting this finding is contained in the Company's Application and in the testimonies of Company witness Lubertozi and ORS witness Stutz. ORS offered certain adjustments to the Company's proposed rate base. [Stutz, Tr. Vol. 2, p. 10, l. 10 – p. 11, l. 9.] Although Company witness Lubertozi agreed with certain adjustments, Lubertozi disagreed with ORS's disallowance of certain projects that were completed and in service in May 2010. At hearing, ORS agreed with the inclusion of this additional plant. The City agreed with the Company's adjustments made to Gross Plant in Service and did not dispute the inclusion of TCWS's pro forma projects. The adjustments to rate base agreed to by the Company and ORS are as follows:

(A) Gross Plant in Service

(1) Position of TCWS: TCWS proposed to adjust gross plant in service for plant additions through December 31, 2009 in the amount of \$1,570,164.

(2) Position of ORS: ORS agreed that known and measurable plant additions through December 31, 2009 and completed after the test year and providing service to present customers should be included. ORS verified this amount to be \$1,575,067.

(3) Position of City: The City agreed with TCWS's proposed adjustments to gross plant in service. In addition, the City did not dispute TCWS's proposed adjustments to reflect pro forma projects after the test year which were verified by ORS.

(4) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by TCWS.

(B) Plant Additions from Capitalized Time and Routine Activities

(1) Position of TCWS: TCWS did not propose an adjustment for this item.

(2) Position of ORS: ORS proposed to book to plant the portion of operators' salaries, taxes and benefits associated with capital projects for the test year. ORS's adjustment amounts to \$1,267.

(3) Position of City: The City did not propose an adjustment on this item.

(4) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by ORS.

(C) Accumulated Depreciation

(1) Position of TCWS: TCWS proposed to adjust for plant retirements associated with capital investments, retirements and plant held for future use. As well, the Company recalculated Accumulated Depreciation for Computers and Vehicles based on the ERC allocation methodology. TCWS's adjustment totaled \$158,787.

(2) Position of ORS: ORS also proposed an adjustment to reduce accumulated depreciation in the amount of \$148,467.

(3) Position of City: The City did not propose an adjustment on this item.

(4) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by TCWS.

(D) Cash Working Capital

(1) Position of TCWS: TCWS proposed to adjust cash working capital based on pro forma expense. The Company proposed to calculate cash working capital based upon 1/8 of the total amount of maintenance expenses, general expenses and taxes other than income. Based upon their proposed adjustments, TCWS's proposed adjustment to cash working capital totaled \$6,785.

(2) Position of ORS: ORS also proposed an adjustment to cash working capital after accounting and pro forma adjustments. ORS also proposed to calculate cash working capital based upon 1/8 of the total amount of maintenance expenses, general expenses and taxes other than income. Based upon their proposed adjustments, ORS's proposed adjustment to cash working capital totaled (\$17,313).

(3) Position of City: The City did not propose an adjustment on this item.

(4) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust cash working capital for accounting and pro forma adjustments. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for cash working capital in the amount of \$1,424.

(E) Contributions in Aid of Construction.

(1) Position of TCWS: TCWS proposed to adjust Contributions in Aid of Construction ("CIAC") in the amount of (\$43,120) to reflect the amortization of CIAC expense as a result of the proposed expense adjustment for Interest During Construction.

(2) Position of ORS: ORS also proposed to adjust Contributions in Aid of Construction in the amount of (\$43,120) to reflect the amortization of CIAC expense as a result of the proposed expense adjustment for Interest During Construction.

(3) Position of City: The City did not propose an adjustment on this item.

(4) Decision of the Commission: The Commission finds that ORS and TCWS agreed with respect to the proposed adjustment to CIAC; therefore, the Commission adopts the proposals of TCWS and ORS.

(F) Interest Expense

(1) Position of TCWS: TCWS proposed to adjust interest on debt to reflect the rate base after accounting and pro forma adjustments in the amount of (\$38,172). At hearing, TCWS agreed to the position of ORS on this adjustment.

(2) Position of ORS: ORS also proposed to adjust interest on debt to reflect the rate base after accounting and pro forma adjustments. ORS computed an adjustment of (\$37,946), resulting in allowable interest expense of \$128,482.

(3) Position of City: The City did not propose an adjustment on this item.

(4) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust interest on debt to reflect the rate base after accounting and pro forma adjustments. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for interest on debt in the amount of (\$13,480) for a total adjusted interest on debt amount of \$129,277.

Summary of Adopted Adjustments to Rate Base:

The total effect of the adjustments to rate base adopted herein increase Gross Plant in Service by \$1,570,164, decrease Accumulated Depreciation by \$158,787 [thereby resulting in an increase to Net Plant in Service to \$1,728,950], increase Cash Working Capital by \$1,424, and increase CIAC by (\$43,120). The total of the adjustments adopted herein increase total rate base by \$1,687,254. Thus, after the adjustments adopted herein, as adjusted rate base is \$3,675,225. The following table indicates the Company's rate base for its jurisdictional operations in South Carolina after accounting and pro forma adjustments approved herein:

TABLE C

Gross Plant in Service	\$14,042,794
LESS: Accumulated Depreciation	(\$3,443,166)
Net Plant in Service	\$10,599,629
ADD:	
Cash Working Capital	\$112,904
DEDUCT:	
Advances in Aid of Construction	\$0
Contributions in Aid of Construction	(\$6,369,241)
Plant Acquisition Adjustment	\$0
Accumulated Deferred Income Taxes	(\$616,840)
Deferred Maintenance	\$0
Customer Deposits	(\$51,227)
TOTAL YEAR END RATE BASE	<u>\$3,675,225</u>

13. The income requirement for TCWS, using the return on rate base of 8.00% found appropriate in this Order and the adjusted rate base of \$3,675,225, is \$293,973.

Under rate of return on rate base regulation, the Commission must approve an income requirement that will permit the Company to cover operating costs and provide an opportunity to earn the approved rate of return on the rate base. *Hamm, supra*. The determination of the income requirement requires a calculation using approved Operating Revenues and approved Operating Expenses to determine Net Operating Income for Return. Net Operating Income for Return is then increased for approved AFUDC and approved Customer Growth resulting in Total Income for Return. The following table illustrates the calculations of TCWS's Total Income for Return:

TABLE D

After Increase

Operating Revenues	\$1,366,427
Operating Expenses	<u>\$1,072,454</u>
Net Operating Income For Return	\$293,973
ADD: Allowance for Funds Used During Construction	<u>\$0</u>
TOTAL INCOME FOR RETURN	<u>\$293,973</u>
Return on Rate Base	<u>8.00%</u>

As demonstrated on Table D, Total Income for Return after the increase approved herein is \$293,973.

14. In order for TCWS to have the opportunity to earn its income requirement of \$293,973, TCWS must be allowed additional revenues totaling \$235,128.

In order for the Company to have the opportunity to earn the 8.00% rate of return on rate base approved herein, the Commission must increase revenues sufficient to achieve a Total Income for Return of \$293,973, as calculated in Finding of Fact No. 13. The additional revenue calculated for the Company to have the opportunity to earn its approved rate of return of 8.00%, based on the notices rates, *see* discussion, p. 14-15, *supra*, requires an increase of \$235,128.

15. The resultant operating margin for TCWS, based upon the adjustments and rates approved herein, is 12.05%. S.C. Code Ann. Section 58-5-240(H) (Supp.2009) provides, in part, that “[t]he [C]ommission shall specify an allowable operating margin in all water and wastewater orders.” Based upon the rate of return on rate base approved herein and the revenues and

expenses also approved herein, the corresponding operating margin is calculated to be 12.05%.

The following Table reflects an operating margin of 12.05%:

<u>TABLE E</u>	
Operating Revenues	\$1,366,427
Operating Expenses	<u>\$1,072,454</u>
Net Operating Income	\$293,973
ADD: Allowance for Funds Used During Construction	<u>\$0</u>
Total Income for Return	<u>\$293,973</u>
Operating Margin (After Interest Expense of \$129,277)	<u>12.05%</u>

16. The Company's requested modifications to its water rate schedule for implementing a cross-connection control program are appropriate as being in the public interest and are hereby approved.

The evidence supporting this finding of fact is contained in the Company's Application, the testimony of its witness Daniel [Daniel, Tr. Vol. 2, p. 336, 16 – p. 337, l. 2], and the testimony of ORS witness Morgan [Morgan, Tr. Vol. 2, p. 566, ll. 18-20.] We further agree with TCWS witness Daniel that DHEC regulation 24A S.C. Code Ann. R. 61-58.7.F.8 prohibits maintenance of a cross-connection to a public water system unless a cross-connection inspection is performed annually on required backflow prevention devices. [Daniel, Tr. Vol. 2, p. 336, ll. 12-16.] Because it is the decision of a customer to install a cross-connection, the burden of compliance with the DHEC regulations in this regard should be borne by the customer.

Therefore, we disagree with ORS witness Morgan that the Company should be required to provide the customers a 30-day advance written notice of the recurring annual date when the customer must have their device tested. Further, in the event that a customer fails to have their backflow prevention device individually tested annually, the Commission finds that it is reasonable for water service to these customers be disconnected. However, the Commission finds, as agreed to by the Company, that TCWS should provide customers a thirty-day written notice that their service will be disconnected if the testing is not performed. Given that ORS supports these modifications, and no other party opposed them, we find the Company's requested rate schedule modifications to be in the public interest and approve same.

17. The Commission also approves the Company's proposal to modify its terms and conditions to provide for electronic billing.

The evidence supporting this finding of fact is contained in the Company's application, the testimony of its witness Lubertozzi [Lubertozzi, Tr. Vol. 2, p. 393, ll. 14-20] and the testimony of ORS witness Morgan [Morgan, Tr. Vol. 2, p. 567, l. 6-10.] Witness Lubertozzi stated that the proposed language on billing will provide customers with additional billing options which will allow for electronic billing and payment. [Lubertozzi, Tr. Vol. 2, p. 393, ll. 14-16.] Electronic billing would not be required of customers, but would only be provided as a service if a customer chooses and when it is within the capability of the Company. [Lubertozzi, Tr. Vol. 2, p. 393, ll. 16-18.]

ORS witness Morgan stated that ORS was not opposed to the proposed language on the condition that TCWS be required to provide customers a monthly electronic notice via email of

the bill statement availability and the web address of its location. [Morgan, Tr. Vol. 2, p. 567, l. 7-10.] The Commission agrees with the Company that customers would appreciate the opportunity to receive and pay their bills online and that they would benefit from the ease and convenience of maintaining their utility account online. The Commission therefore finds that the Company's proposal, as modified by the recommendation of ORS, is reasonable and is hereby approved.

18. The Commission finds that the Company is maintaining its books and records in accordance with the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts ("USOA").

The evidence supporting this finding of fact is contained in the testimony of Company witness Lubertozi [Lubertozi, Tr. Vol. 2, p. 404, l. 9 – p. 405, l. 2] and ORS witness Stutz [Stutz, Tr. Vol. 2, p. 530, l. 13 – p. 31, l. 2. ORS originally asserted that TCWS's new accounting system does not conform to the NARUC Uniform System of Accounts and, therefore, Commission rules, because it does not adopt the account numbering system contained in the USOA. In response, Lubertozi stated that the USOA does not require TCWS, as a Class B water and wastewater utility, to adopt the numbering scheme proposed by ORS. Rather, Lubertozi stated that the USOA requires the Company to provide a reconciliation of the account numbers and titles, which reconciliation they provided in the course of ORS's audit. [Lubertozi, Tr. Vol. 2, p. 404, ll. 9-23.] In her surrebuttal, ORS witness Stutz acknowledged that TCWS's use of the USOA numbering system is optional. [Stutz, Tr. Vol. 2, p. 530, ll. 13-17.]

The Commission reaffirms that the Company is required to comply with the USOA. However, the Commission recognizes that TCWS is not required to adopt the accounting numbering system set forth in the USOA, but may provide a separate list of account numbers which reconcile to the USOA account numbers. *See* Accounting Instruction 3.D, NARUC USOA for Class B Wastewater Utilities. [Hearing Exhibit No. 22, p. 21, 23.] ORS witness Stutz testified that TCWS provided ORS with a list that traced accounts to the USOA system and that ORS was able to perform a complete and thorough audit of the Company's books and records. [Stutz, Tr. Vol. 2, p. 515, ll. 5-16.] Further, Company witness Lubertozi testified that such a list was provided to ORS in March of 2010, which was four months prior to the hearing in this matter. [Lubertozi, Tr. Vol. 2, p. 421, ll. 9-13.] Accordingly, no violation of Commission rules in regard to the USOA exists.

19. The Commission finds that the Company's collection practices are reasonable.

The evidence supporting this finding of fact is contained in the testimony of Company witness Lubertozi. [Lubertozi, Tr. Vol. 2, p. 402, l. 21 – p. 403, l. 22.] ORS witness Morgan testified that TCWS experienced a high uncollectible rate in 2008 and that the Company should investigate and revise its collections process to include a more vigilant approach to the collection process. [Morgan, Tr. Vol. 2, p. 565, ll. 4-13.] Lubertozi stated that in December 2009, the Company enhanced their collection process by implementing outbound collection calls, abbreviating the timeline for collections, building new relationships with external collections agencies and dedicating resources to collection management. [Lubertozi, Tr. Vol. 2, p. 402, l. 21 – p. 403, l. 2.] The Commission finds that the Company's practices in this regard are

reasonable. The Commission further finds that the Company's per books uncollectible percentage of service revenues experienced during the test year was less than 0.7% which is well within the 1.5% uncollectible percentage advocated by ORS witness Morgan. [Morgan, Tr. Vol. 2, p. 564, ll. 15-22.]

20. The Commission finds that TCWS should not be required to install meters on flushing points.

The evidence supporting this finding of fact is contained in the testimony of Company witness Haas. [Haas, Tr. Vol. 2, p. 261, l. 1 – p. 262, l. 2.] ORS witness Morgan recommended that the Company "install meters on all release points (i.e., blow-off and/or flushing locations, etc.) on the water system." [Morgan, Tr. Vol. 2, p. 567, ll. 16-17.] Morgan testified that this would allow TCWS to meter the amount of water used for flushing. [Morgan, Tr. Vol. 2, p. 567, ll. 17-19.] In response, Company witness Haas stated that this requirement could cost tens of thousands of dollars and that it was unnecessary given the operators' experience in estimating what is a necessary and routine maintenance task. [Haas, Tr. Vol. 2, p. 261, l. 1 – p. 262, l. 2.]

The Commission agrees with TCWS. The cost to install the meters recommended by Morgan would be considerable and is unnecessary due to the reliability of the estimates made by the Company's operators. Therefore, the Company is not required to install meters on release points as recommended by ORS witness Morgan.

21. The Commission finds that the amount of TCWS's bond for water operations should be \$330,000 and for wastewater operations should be \$350,000.

The evidence supporting this finding is found in the testimony of ORS witness Morgan [Morgan, Tr. Vol. 2, p. 565, l. 16 – p. 566, l. 7] and the testimony of Company witness Lubertozzi. [Lubertozzi, Tr. Vol. 2, p. 404, ll. 1-4.] Morgan testified that TCWS has a current performance bond in the amount of \$300,000 for water operations and \$350,000 for wastewater operations. Based on the expenses from the test year and using the criteria set forth in S.C. Code Ann. § 58-5-720 (Supp. 2009) and 26 S.C. Code Ann. Regs. 103-512.3.1 and 103-712.3.1, ORS determined that the face amount of TCWS's bond should be \$330,000 for water operations and \$350,000 for wastewater operations. [Hearing Exhibit No. 29, p. 9.] The Company agreed to ORS's proposal. Because no party disputed the calculation of the bond amount, and based upon the expense adjustments adopted herein, the Commission finds that a bond for the Company's water operations in the amount of \$330,000 and a bond for the Company's wastewater operations in the amount of \$350,000 is reasonable and in accordance with the Commission's regulations.

IV. CONCLUSIONS OF LAW

Based upon the Findings of Fact as contained herein and the record of the instant proceeding, the Commission makes the following Conclusions of Law:¹²

1. Rate of return on rate base is the appropriate guide for the Commission to use in determining the lawfulness of the rates of TCWS and in fixing of just and reasonable rates for TCWS to charge its customers in South Carolina.

¹² The Commission's analyses which give rise to the Conclusions of Law are contained in the discussions of Section III of this Order.

2. A fair rate of return on rate base for the operation of TCWS in South Carolina, subject to the proposed rates noticed in this proceeding, *see* discussion p. 14-15, *supra*, is 8.00%. This rate of return is calculated using a capital structure of 53.30% debt and 46.70% equity, a cost of debt of 6.60%, and a return on equity of 9.60%. Based on the discussion and analysis of the Commission as detailed in this Order, these components of capital structure, cost of debt, and cost of equity and the resulting rate of return on rate base, and in light of the rates proposed by the Company in its application and noticed in this proceeding, produce a fair and reasonable rate of return which the Company should have the opportunity to earn.

3. For the test year of December 31, 2008, the appropriate operating revenues, under present rates and as adjusted in this Order, are \$1,131,299, and the appropriate operating expenses, under present rates and as adjusted in this Order, are \$1,001,181.

4. Using the rate base as adjusted in this Order of \$3,675,225 and the return on rate base of 8.00% found to be fair and reasonable in this Order, the income requirement for TCWS is \$293,973.

5. In order for TCWS to have an opportunity to earn the return on rate base found reasonable and approved in this Order and to meet the income requirement, TCWS must be allowed additional revenues of \$235,128.

6. The rates approved in this Order are designed to be just and reasonable, in light of the rates proposed by the Company in its application and noticed in this proceeding, without undue discrimination and are also designed to meet the revenue requirements of the Company.

7. Based on the adjustments approved herein and the increase in rates approved herein, the appropriate operating margin for TCWS on its South Carolina operations is 12.05%.

8. The Company's requested modifications to certain terms and conditions of service in its rate schedule are appropriate.

IT IS THEREFORE ORDERED THAT:

1. TCWS is granted a rate of return on rate base for its water and sewer operations in South Carolina of 8.00%.

2. The schedule of rates and charges attached hereto as Appendix A, which include the Company's proposed modifications, are hereby approved for service rendered on or after the date of this Order. Further, the schedules are deemed to be filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2008).

3. Should the rates set forth in the schedules approved herein and attached hereto as Appendix A not be placed in effect until three (3) months from the effective date of this Order, the rates set forth in the approved schedules shall not be charged without written permission from the Commission.

4. TCWS shall maintain its books and records for water and sewer operations in accordance with the NARUC Uniform System of Accounts for Class B Water and Sewer Utilities, as adopted by this Commission.

5. TCWS shall re-examine the amounts of inflow and infiltration within its wastewater collection system and shall report the results of this analysis to ORS within one hundred twenty (120) days of the date of this order.

6. TCWS shall post with this Commission a bond with a face value of \$680,000 to satisfy the findings in this Order within ninety (90) days of receipt of this Order.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

John E. Howard, Chairman

ATTEST:

David A. Wright, Vice-Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2009-473-WS

IN RE:

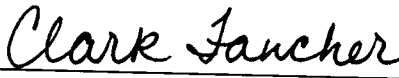
Application of Tega Cay Water
Service, Inc. for adjustment of
rates and charges and modifications to
certain terms and conditions for the
provision of water and sewer service.

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Proposed Order of Tega Cay Water Service, Inc.** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

James E. Sheedy, Esquire
Susan E. Driscoll, Esquire
Driscoll Sheedy, P.A.
11520 N. Community House Road, Suite 200
Charlotte, NC 28277


Clark Fancher

Columbia, South Carolina
This 30th day of July, 2010.